



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

May 24, 2004

S. 1582

Valles Caldera Preservation Act of 2004

*As ordered reported by the Senate Committee on Energy and Natural Resources
on May 5, 2004*

SUMMARY

Public Law 106-248 established the Valles Caldera Preserve in New Mexico. That law also established the Valles Caldera Trust, a government-owned corporation, to manage the preserve. S. 1582 would make several changes to Public Law 106-248. One of those changes would authorize the Secretary of Agriculture to acquire, by taking, certain subsurface rights to the Baca Ranch, which lies within the preserve. Under the bill, the owners of those subsurface rights would be entitled to just compensation as determined by a court.

CBO estimates that S. 1582 would increase direct spending by about \$3 million in 2007. Enacting the bill would not affect revenues. S. 1582 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2002, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1582 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 800 (general government).

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	0	0	1	0	0	0	0	0	0	0
Estimated Outlays	0	0	3	0	0	0	0	0	0	0

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1582 will be enacted near the start of fiscal year 2005 and that the federal government will assume ownership of the subsurface rights soon thereafter. Based on information from the Department of the Interior about the length of time typically required to resolve similar cases, we assume that a court would award a total of \$3 million in compensation to the owners of those subsurface rights during fiscal year 2007.

According to the Forest Service, the appraised value of the subsurface rights to be taken is about \$2 million. In addition, based on information about historical differences between federal appraisals and amounts awarded by courts to compensate takings of private property in New Mexico, CBO estimates that an additional \$1 million would be awarded to the owners of those subsurface rights. Hence, we estimate that payments to those parties would total about \$3 million in 2007.

S. 1582 specifies two sources of funds to make that payment. First, the bill would require the Forest Service to use existing funds to compensate the owners of the subsurface rights for the appraised value of those rights. Second, S. 1582 would provide authority to use the Claims and Judgments Fund to pay additional amounts awarded by the court. For this estimate, CBO assumes that the agency would use \$2 million of funds appropriated for land acquisition in fiscal year 2004—funds that CBO estimates are available but not likely to be spent under current law—to pay a portion of the compensation amount. Hence, we estimate that the bill would provide new budget authority of \$1 million in 2007.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1582 contains no intergovernmental mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates (\$120 million in 2002, adjusted annually for inflation).

The bill would direct the Secretary of Agriculture to acquire the mineral interests without the seller's consent should negotiations for a sale fail after 60 days. Should those negotiations fail, the Secretary of Agriculture would be required to file a declaration of taking with the court. The declaration of taking would force the owners of the geothermal and mineral interests to give up ownership in exchange for a sum equal to the fair market value as determined by the court. As noted above, an appraisal done by the Forest Service in 2001 concluded that the privately held mineral and geothermal interests on the Baca Ranch have a fair market value of almost \$2 million. In December 2001, the Forest Service's offer for purchase of the interests based on this appraisal was rejected.

ESTIMATE PREPARED BY:

Federal Costs: Megan Carroll

Impact on State, Local, and Tribal Governments: Marjorie Miller

Impact on the Private Sector: Selena Caldera

ESTIMATE APPROVED BY:

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis